

(b) These sections listed in paragraph (a) of this section are adopted verbatim, with the exception of the Advisory Notes, which are expressly excluded.

§254.2 Definition of primary function area and criteria used to determine whether an alteration has an effect on an area containing a primary function that is disproportionate to the overall alterations.

(a) *Terminology.* The new accessibility guidelines require that certain terms be defined by the participating federal agencies. In the U.S. Access Board's 36 CFR part 1191, Appendix C, ABA chapter 2, section F202.6.2 requires that "primary function areas" be defined and Section F202.4 contains requirements for alterations affecting "primary function areas" stating, "* * *an alteration that affects or could affect the usability of or access to an area containing a primary function shall be made so as to ensure that, to the maximum extent feasible, the path of travel to the altered area, including the rest rooms, telephones, and drinking fountains serving the altered area, are readily accessible to and usable by individuals with disabilities, unless such alterations are disproportionate to the overall alterations in terms of cost and scope as determined under criteria established by the Administrator of * * * the United States Postal Service."

(b) *Primary function areas.* For purposes of this part, the primary function of the Postal Service is to provide mail service for its customers, that is to accept, distribute, transport and deliver the mail. Two essential facilities for fulfilling these functions are customer lobby areas where customers conduct their retail transactions, access mail depositories and post office boxes and work room areas where postal employees distribute the mail and perform other core postal operations. Therefore, for purposes of the accessibility guidelines applicable to the Postal Service under the Architectural Barriers Act, two primary function areas are identified: Customer Lobbies and Workroom Areas.

(c) *Disproportionality.* (1) According to Section F202.6.2, "alteration" of elements in a primary function area can trigger a requirement to make accessi-

bility improvements along the path of travel to the area and improvements to rest rooms, telephones, and drinking fountains that serve the altered area if the alteration "affects or could affect the usability of or access to an area containing a primary function." It is conceivable that almost any repair or alteration project in a "primary function area" could affect the usability of the area. Therefore a literal interpretation of this provision could require an expansion of the scope of virtually any alteration in a primary function area, regardless of the size and scope of the original project. According to Section F202.6.2, accessibility improvements must be made to the path of travel to the altered area and to rest rooms, telephones, and drinking fountains that serve the altered area "unless such alterations are disproportionate to the overall alterations in terms of cost and scope".

(2) For purposes of the accessibility guidelines applicable to the Postal Service under the Architectural Barriers Act, two criteria must be considered in making a determination whether accessibility improvements are disproportionate to the cost and scope of the original alteration: a magnitude threshold for the original alteration and a maximum "percentage threshold" for the accessibility alteration.

(d) *Magnitude threshold.* It is anticipated that, in most cases, a significant additional effort would be required to assess physical conditions along the path of travel and for rest rooms, telephones, and drinking fountains that serve the altered area, and to determine the scope, budget and appropriate design requirements for any corrective alterations. Unless the original alteration is of substantial magnitude, a disproportionate effort would be devoted to such investigation, design, and administration leaving few, if any funds to accomplish corrective work. Accordingly, a "magnitude threshold" is established such that no accessibility improvements to the path of travel, nor to any associated facilities, shall be required under F202.6.2 for alterations that have an estimated total cost less than 20 percent of the fair market value of the facility.

(e) *Percentage threshold.* For alterations subject to F202.6.2 that meet or exceed the “magnitude threshold,” the maximum cost for accessibility improvements to the path of travel, including all costs for accessibility improvements to rest rooms, telephones, and drinking fountains that serve the altered area, shall not exceed 20 percent of the total cost of the original alteration. Costs for accessibility improvements in excess of the 20 percent threshold shall be deemed “disproportionate.”

PART 255—ACCESS OF PERSONS WITH DISABILITIES TO POSTAL SERVICE PROGRAMS, ACTIVITIES, FACILITIES, AND ELECTRONIC AND INFORMATION TECHNOLOGY

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AUTHORITY: 39 U.S.C. 101, 401, 403, 1001, 1003, 3403, 3404; 29 U.S.C. 791, 794, 794d.

SOURCE: 69 FR 44962, July 28, 2004, unless otherwise noted.

§ 255.1 Purpose.

(a) This part implements section 504 of the Rehabilitation Act of 1973, as amended. Section 504 prohibits discrimination on the basis of disability in programs or activities conducted by executive agencies or by the Postal Service. This part also implements section 508 of the Rehabilitation Act of 1973, as amended. Section 508 requires that executive agencies and the Postal Service ensure, absent an undue burden, that individuals with disabilities have access to electronic and information technology that is comparable to the access of individuals who are not disabled.

(b) The standards relating to electronic and information technology expressed in this part are intended to be consistent with the standards announced by the Architectural and Transportation Barriers Compliance Board on December 21, 2000. Those standards are codified at 36 CFR part 1194.

§ 255.2 Definitions.

(a) *Agency* as used in this part means the Postal Service.

(b) *Area/functional vice president* also includes his or her designee.

(c) *Electronic and information technology (EIT)* includes “information technology” and any equipment or interconnected system or subsystem of equipment that is used in the creation, conversion, or duplication of data or information. The term does not include any equipment that contains embedded information technology that is used as an integral part of the product, but the principal function of which is not the acquisition, storage, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of data or information.

(d) *Formal complaint* means a written statement that contains the complainant’s name, address, and telephone number, sets forth the nature of the complainant’s disability, and describes the agency’s alleged discriminatory action in sufficient detail to inform the agency of the nature of the alleged violation of section 504 or of section 508. It shall be signed by the complainant or by someone authorized to do so on the complainant’s behalf.

(e) *Individual with a disability.* For purposes of this part, “individual with a disability” means any person who—

(1) Has a physical or mental impairment that substantially limits one or more of such person’s major life activities;

(2) Has a record of such an impairment; or

(3) Is regarded as having such an impairment.

(f) *Information technology* means any equipment, or interconnected system or subsystem of equipment, that is used in the automatic acquisition, storage, manipulation, management,